

AN ORDINANCE OF THE CITY OF LINCOLN  
ADDING CHAPTER 8.60 TO THE LINCOLN MUNICIPAL CODE  
PERTAINING TO  
POST-CONSTRUCTION STORM WATER RUNOFF CONTROL

Recitals

WHEREAS, pursuant to the federal Clean Water Act, and its implementing regulations for the National Pollutant Discharge Elimination System ("NPDES"), the City was required to obtain a storm water permit (the "NPDES Permit") for the City's storm sewer system;

WHEREAS, pursuant to the NPDES Permit, City prepared and adopted a Storm Water Management Plan (the "SWMP") that was approved by the California Regional Water Quality Control Board; and

WHEREAS, in further implementation of the SWMP, City is required to implement certain Best Management Practices ("BMPs") to help control storm water runoff into the City's storm sewer system and to minimize the dispersal of pollutants into such system.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LINCOLN DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 8.60 is hereby added to the Lincoln Municipal Code to read as follows:

CHAPTER 8.60

POST-CONSTRUCTION STORM WATER RUNOFF CONTROL

Sections:

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### Section 8.60.01 Findings of Fact

The City Council adopts this Chapter based upon the following findings:

- A. The Federal Clean Water Act provides for the regulation and reduction of pollutants discharged into waters of the United States by extending National Pollutant Discharge Elimination System ("NPDES") requirements to storm water and urban runoff discharges into the City storm water conveyance system.
- B. Storm water flows from individual properties to the municipal storm drain system and then ultimately discharges to waters of the United States.
- C. The City has obtained permit coverage under the State of California's Waste Discharge Requirements for Small Municipal Separate Storm Sewer Systems (Order No. 2003-0005-DWQ) and the National Pollutants Discharge Elimination System General Permit No. CAS000004 under the Clean Water Act.

Under the provisions of this permit, the City is required to possess the necessary legal authority to implement appropriate procedures to regulate the entry of pollutants and non-storm water discharges into the City's storm water conveyance system.

#### Section 8.60.02 Purpose

The purpose of this ordinance is to ensure the health, safety and general welfare of citizens, and to protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act by reducing pollutants in storm water discharges to the maximum extent practicable and by prohibiting non-storm water discharges to the storm water conveyance system.

#### Section 8.60.03 Definitions

1. Applicant shall mean a property owner or agent of a property owner who is developing or redeveloping a site that meets the criteria defined in this Ordinance.
2. Best Management Practices shall mean activities, practices, and procedures that prevent or reduce the discharge of pollutants directly or indirectly to the municipal storm drain system and waters of the United States. Best Management Practices include but are not limited to: treatment facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-storm water, waste disposal, and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices and procedures and other such provisions as the City determines appropriate for the control of pollutants.
3. Building shall be defined as any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.
4. Channel shall be defined as a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
5. City shall mean the City of Lincoln.
6. Dedication shall mean the deliberate appropriation of property by its owner for general public use.
7. Detention shall mean the temporary storage of storm runoff in a storm water management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.
8. Detention Facility shall be defined as a detention basin or alternative structure designed for the purpose of temporary storage of surface runoff and gradual release of stored water at controlled rates.

9. Developer shall be defined as a person who develops real estate, especially by preparing a site for residential or commercial use.

10. Drainage Easement shall mean a legal right granted by a landowner to a grantee allowing the use of private land for storm water management purposes.

11. Erosion and Sediment Control Plan shall mean a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

12. Impervious Surface shall be defined as surfaces incapable of being infiltrated by water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

13. Industrial Activity shall mean activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

14. Industrial Storm Water Permit shall mean a National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial storm water discharges or specifies on-site pollution control strategies.

15. Infiltration shall mean the process of percolating storm water into the subsurface.

16. Infiltration Facility shall be defined as any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

17. Jurisdictional Wetland shall mean an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

18. Land Disturbance Activity shall be defined as any activity which removes existing vegetation or otherwise disturbs the surface of the land. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock.

19. Landowner shall be defined as the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

20. Maintenance Agreement shall mean a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

21. Maximum Extent Practicable (MEP) shall mean a technology-based standard established by Congress in the Clean Water Act Section 402(p)(3)(iii) for storm

water discharge to apply to all small municipal separate storm sewer system (MS4) operators regulated under the NPDES program. MEP is generally the result of emphasizing pollution prevention and source control best management practices as the preferred method of preventing water pollution. The MEP approach is an ever-evolving, flexible and advancing concept, which considers technical and economic feasibility. As knowledge about controlling urban runoff continues to evolve, so does MEP.

22. Municipal Separate Storm Sewer System (MS4) shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned by a State, county, city, town, or other public body, that is designed or used for collecting or conveying storm water, which is not a combined sewer, and which is not a part of a publicly owned treatment works.

23. Non-Storm water Discharge shall be defined as any discharge to the storm drain system that is not composed entirely of storm water.

24. Off-Site Facility shall be defined as a storm water management measure located outside the subject property boundary described in the permit application for land development activity.

25. On-Site Facility shall be defined as a storm water management measure located within the subject property boundary described in the permit application for land development activity.

26. Pollutant shall be defined as anything which causes or contributes to pollution. Pollutants may include but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid waste and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, articles, and accumulations, so that they may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete waste); and noxious or offensive matter of any kind.

27. Recharge shall mean the replenishment of underground water reserves.

28. Redevelopment shall mean the construction, alteration or improvement which result in five acres or more of disturbed soil area and where existing land use is high-density commercial, industrial, institutional or multi-family residential.

29. Retention Basin shall be defined as an area to hold water from a small surrounding drainage area that would otherwise flow into other areas.

30. Run-off Reduction Measure is site design components that reduce the amount of storm water runoff by promoting infiltration or reducing or disconnecting impervious surfaces.

31. Stop Work Order shall mean an order issued which requires that all construction activity on a site be stopped.

32. Storm Water shall be defined as any surface flow, runoff, and drainage consisting entirely of water from precipitation events.

33. Storm Water Management shall mean the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

34. Source Control Measure is a measure that prevents pollutants from entering storm water to begin with.

35. Treatment Measure shall mean measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or non-point source pollution inputs to storm water runoff and water bodies.

36. Watercourse shall be defined as a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

37. Waters of the United States shall be defined as surface watercourses and water bodies as defined at 40 CFR section 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.

38. Waters of the State shall be defined as all surface watercourses and water bodies, including lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, marshes, inlets, canals, and all other bodies of surface waters (Porter Cologne Act, Water Code section 13050 (e)). This definition includes, but is broader than, Waters of the United States.

#### Section 8.60.04 Applicability

This ordinance shall be applicable to all subdivision or site plan applications, unless eligible for an exemption or granted a waiver by the City of Lincoln. This ordinance applies to developments that fall within the following categories:

- A. Development on hillsides.
- B. Commercial developments that result in of 100,000 square feet or more of impervious surface area.
- C. Automotive repair shops.
- D. Retail gasoline outlets.
- E. Restaurants
- F. Residential subdivisions with 10 or more housing units.
- G. Parking lots of 5,000 square feet or more with 25 or more parking spaces and potentially exposed to storm water runoff.

The ordinance may also apply to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the applicability criteria. This ordinance may also apply to redevelopment projects as deemed appropriate by the City of Lincoln.

#### Section 8.60.05 Compatibility with Other Permit and Ordinance Requirements

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

#### Section 8.60.06 Development of a Storm Water Design Manual

The City of Lincoln may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this ordinance and may provide such information in the form of a Storm Water Design Manual.

### ARTICLE II. PERMIT PROCEDURES AND REQUIREMENTS

#### Section 8.60.2 Plan Approval

No land owner or land operator shall receive approval of final improvement plans until the requirements of this ordinance are met unless otherwise approved by the City.

#### Section 8.60.21 Application Requirements

If this ordinance applies to a specific development, the design standards required by this ordinance must be incorporated into the development's improvements plans and those plans subjected to approval by the City.

The City may also require a post-construction Maintenance Plan that will ensure the long term operation of any specific best management practice. The City may also require owners of privately-owned storm water best management practices devices to enter into a maintenance agreement or a deed covenant to ensure the long term operation and maintenance of any such devices.

### ARTICLE III. WAIVERS TO STORM WATER MANAGEMENT REQUIREMENTS

#### Section 8.60.30 Waivers for Providing Storm Water Management

The City may develop a waiver program for those projects where incorporation of all of or part of the required design standards specified in this ordinance are not technically or economically feasible. If the waiver program is developed, an applicant

may submit a written request to waive the requirements of this ordinance, including evidence that compliance with the required design standards is not technically or economically feasible. All waivers must be submitted to the City for approval. The waiver program may require a fee-in-lieu of complying with the design standards required by this ordinance. The amount required to be paid will be determined by the City by resolution. Any monetary contributions collected as part of a fee-in-lieu of waiver will be used to fund storm water management activities.

#### ARTICLE IV. DESIGN STANDARDS

##### Section 8.60.40 Design Standards

To prevent the adverse impacts of storm water runoff, the City will develop a set of performance standards that must be met at new development sites that fall within one of the applicable categories defined in Section 8.60.04.

Unless a development is determined by the City to be exempt or is granted a waiver, the following design standards shall be addressed for storm water management at all sites. When a site development plan is submitted that is a redevelopment project as defined in Section 8.60.03(28) of this Ordinance, decisions on permitting and on-site storm water requirements shall be determined by the City. This criterion is dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the City.

- A. A storm water management plan must be prepared and submitted for approval by the City that indicates how the design standards identified in this section will be complied with. The plan must illustrate sufficient engineering analysis to show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with a method deemed acceptable by the City.
- B. Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion.
- C. All storm water runoff generated from new development which meets the stated criteria in Section 1.4 may not discharge untreated storm water directly into a jurisdictional wetland or local water body without adequate treatment.
- D. All developments that meet the criteria of this ordinance must be designed in a manner that minimizes, to the maximum extent practicable, the discharge of pollutants and non-storm water discharges.
- E. All developments that meet the criteria of this ordinance must consider both treatment control and source control measures as defined by this ordinance. All developments must maximize infiltration and groundwater recharge to the maximum extent practicable.



- F. Sites shall be designed in a manner that limits clearing and grading to the minimum amount needed to build lots, allow access, and provide fire protection.
- G. Site layouts must be designed in a manner in which maximizes vegetation.
- H. Treatment control selection and design must be approved by the City of Lincoln.
- I. All treatment control measures must be designed per design criteria deemed acceptable by the City.
- J. All storm water treatment facilities based on volume design shall be sized using the Urban Runoff Quality Management method (the 85th percentile capture ratio volume based treatment control sizing method) as set forth in the American Society of Civil Engineers (ASCE) Manuals and Report on Engineering Practice No. 87 or by another method approved by the City.
- K. All outdoor waste management areas must be designed in a manner that minimizes the potential for pollutants and/or waste to come in contact with storm water runoff and minimizes the potential for polluted storm water discharges.
- L. All outdoor material storage areas must be designed in a manner that minimizes the potential for pollutants to come in contact with storm water runoff and in a manner that minimizes the potential for polluted storm water discharges.
- M. All new drain inlets must be stenciled with a brief statement that prohibits the discharge of improper materials to the storm drain conveyance system. All stencils must be approved by the City.
- N. Commercial Developments that will be 100,000 square feet or larger must design the loading and unloading dock areas, any repair and maintenance bays, and/or any vehicle/equipment wash areas in a manner that reduces the potential for pollutants to come into contact with storm water runoff and eliminates prohibited non-storm water discharges. Site layout is subject to approval by the City.
- O. All restaurants must be designed to include equipment and accessory wash areas that have a self-contained grease trap that is connected to the sanitary sewer. If wash areas are located outdoors, it must be covered, paved, have secondary containment and be connected to the sanitary sewer. All sanitary sewer connections must be approved by the City.
- P. All retail gas-outlets, automotive repair shops, repair/maintenance bays and vehicle wash areas must be properly designed to prevent oil and grease, solvents, car battery acid, coolant, gasoline, soap, detergent, waste and any other pollutants from discharging into the storm drain conveyance system. Site design must be approved by the City.

Q. Parking lots that will have more than 25 or more parking spaces must be designed in a manner that reduces impervious surface, minimizes the potential for polluted discharges and/non-storm water discharge, and must incorporate both treatment and runoff reduction measures to address pollutants of concern. Site design must be approved by the City.

R. The applicant must prepare an erosion and sediment control plan for all construction activities related to implementing any on-site storm water management practices

S. All applicants must submit a Maintenance Plan with the storm water management plan which must identify long term maintenance and operation strategy that will ensure the continued effectiveness of any specific storm water treatment or source control measure. The Maintenance Plan is subject to approval by the City.

T. All storm water measures are subject to final inspection prior to issuance of certificate of occupancy.

U. Upon the completion of construction, all storm water treatment facilities must be certified by a professional engineer.

V. The City may require more stringent storm water management measures than those defined in this ordinance.

W. The City may develop a run-off reduction credit system that may reduce the amount of storm water treatment required.

## ARTICLE V. MAINTENANCE AND INSPECTION OF STORM WATER CONTROLS

### Section 8.60.50 Inspection Program

The City may establish an inspection program that may include: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins; storm water treatment controls and sources controls. Inspections may include: reviewing maintenance and repair records; sampling discharges of surface water, groundwater, and/or material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other storm water control practices.

### Section 8.60.51 Maintenance

The City may require any applicants subjected to the requirements of this ordinance to enter into a maintenance agreement or deed covenant to ensure the long term adequacy and operation of any storm water control. All storm water controls must be maintained in accordance with the Maintenance Plan as required under Section 4.0 of this ordinance. The Maintenance Plan is subject to approval by the City.

#### Section 8.60.52 Right of Entry for Inspection

When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the City shall have the right to make an inspection on the property at all reasonable times and in a reasonable manner for such purpose. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

#### Section 8.60.53 Records of Installation and Maintenance Activities

Parties responsible for the operation and maintenance of a storm water management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least ten (10) years. These records shall be made available to the City of Lincoln during inspection of the facility and at other reasonable times upon request.

#### Section 8.60.54 Failure to Maintain Best Management Practices

The failure of a responsible party to comply with the requirements of the maintenance agreement or deed covenant is deemed to be a public nuisance, and subject to abatement pursuant to the procedures set forth in Chapter 8.08 of the Lincoln Municipal Code.

### ARTICLE VI. ENFORCEMENT AND PENALTIES

#### Section 8.60.60 Violations

Any development activity that is commenced or is conducted contrary to this Ordinance shall be deemed to be a public nuisance may be restrained by injunction or otherwise abated in a manner provided by Chapter 8.08 of the Lincoln Municipal Code.

#### Section 8.60.61 Notice of Violation

When the City determines that an activity is not being carried out in accordance with the requirements of this Ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

- A. The name and address of the owner or applicant;
- B. The address when available or a description of the building, structure or land upon which the violation is occurring;
- C. A statement specifying the nature of the violation;
- D. A description of the remedial measures necessary to bring the development activity into compliance with this Ordinance and a time schedule for the completion of such remedial action;
- E. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

F. A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

#### Section 8.60.62 Stop Work Orders

Persons receiving a notice of violation will be required to halt all construction activities. This "stop work order" will be in effect until the City confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.

#### Section 8.60.63 Civil and Criminal Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Chapter shall be punished by a fine of not less than five hundred dollars. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.

#### Section 8.60.64 Restoration of Lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City Lincoln may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

#### Section 8.60.65 Holds on Issuance of Certificates of Occupancy

Certificates of Occupancy will not be granted until corrections to all storm water practices have been made and accepted by the City of Lincoln.

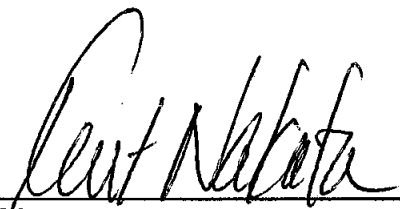
Section 2. This ordinance shall become effective thirty (30) days after its adoption and within fifteen (15) days of the passage of this ordinance, a copy shall be published once in the News Messenger, a newspaper of general circulation in the City.

PASSED AND ADOPTED this 23rd day of October, 2007, by the following roll call vote:

AYES: Councilmembers: Stackpoole, Cosgrove, Short, Santini, Nakata

NOES: Councilmembers: None

ABSENT: Councilmembers: None

  
\_\_\_\_\_  
Mayor

ATTEST:

Patricia Amler  
City Clerk

Ordinance No. 826B

First Reading: 10.09.07

Second Reading: 10.23.07

Effective Date: 11.22.07